



**International Convention on
the Elimination
of all Forms of
Racial Discrimination**

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COMMITTEE ON THE ELIMINATION OF RACIAL DISCRIMINATION

Fifty-second session

SUMMARY RECORD OF THE 1256th MEETING

Held at the Palais des Nations, Geneva,
on Monday, 9 March 1998, at 3 p.m.

Chairman: Mr. ABOUL-NASR

later: Mr. YUTZIS

CONTENTS

CONSIDERATION OF REPORTS, COMMENTS AND INFORMATION SUBMITTED BY STATES PARTIES
UNDER ARTICLE 9 OF THE CONVENTION (continued)

Thirteenth and fourteenth periodic reports of Ukraine

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The meeting was called to order at 3.10 p.m.

CONSIDERATION OF REPORTS, COMMENTS AND INFORMATION SUBMITTED BY STATES PARTIES
UNDER ARTICLE 9 OF THE CONVENTION (agenda item 7) (continued)

Thirteenth and fourteenth periodic reports of Ukraine (CERD/C/299/Add.14;
HRI/CORE/1/Add.63/Rev.1)

1. At the invitation of the Chairman, Mr. Yefimenko, Mrs. Kovalska and Mr. Semashko (Ukraine) took places at the Committee table.

2. Mr. YEFIMENKO (Ukraine) said that Ukraine had achieved independence just over six years previously and was currently faced with the dual task of converting from totalitarianism to democracy and from a centrally planned economic system to a market economy. In addition to inheriting a structurally distorted and ravaged economy, the country was saddled with the enormous financial burden of dealing with the consequences of the accident at the Chernobyl nuclear power station, which had been directly responsible for a worsening of the material living conditions of the entire population, leading to heightened social tension, and had impeded the process of State reform.

3. The protection of human rights and freedoms had been given high priority in the process of democratization, particularly through legislative reform conducted in cooperation with the Office of the High Commissioner for Human Rights, other United Nations bodies, the Council of Europe and the Organization for Security and Cooperation in Europe. In November 1995, Ukraine had become a member of the Council of Europe and in June 1996 had adopted a new Constitution. The European Commission's draft conclusions on the Constitution, "Democracy through law", adopted in January 1997 stated that the rights guaranteed by the Constitution demonstrated Ukraine's desire to protect all the rights set forth in the European Convention for the Protection of Human Rights and Fundamental Freedoms. A Parliamentary Committee had been set up to deal with human rights issues, national minorities and relations among the nationalities. New legislation had been adopted to strengthen individual rights, the legal machinery for the protection of human rights and freedoms was continually updated and Ukraine had become a party to a large number of international human rights treaties. International and local human rights organizations had been registered and working contacts had been established with international governmental and non-governmental organizations (NGOs) working in the area of human rights. Forums were held to combat all forms of racial discrimination and human rights information was disseminated through publications, scientific programmes, teaching materials and recommendations.

4. The Constitution prohibited discrimination based on race, colour of skin, language, religion and other characteristics, and guaranteed every individual the right to qualified legal assistance, judicial protection of rights and freedoms, equality before the law and the courts, liberty and security of person, and the right to seek protection through the Human Rights Commissioner of the Supreme Council (the Ombudsman). The Constitution also guaranteed the right to own private property, including land.

5. In response to the Committee's criticism of Ukraine's compliance with article 4 of the Convention following its consideration of Ukraine's twelfth periodic report, he drew attention to article 66 of the Criminal Code, under which any violation of the equality of rights of citizens on grounds of race, ethnic origin or religious affiliation was a criminal offence.

6. Ukraine had ratified the Council of Europe Framework Convention for the Protection of National Minorities and adopted the following domestic legislation during the period 1992-1998: the Act on the Human Rights Commissioner of the Supreme Council of Ukraine (the Ombudsman); the Constitutional Court of Ukraine Act; the Act concerning Refugees; the Act on National Minorities in Ukraine; the Act on the Legal Status of Foreigners; the Basic Principles of Legislation on Culture; and the High Council of Justice Act. Article 21 of the Act on the Ombudsman stipulated that access to his services was open to everyone without discrimination on any grounds, including prisoners, whose correspondence with the Ombudsman or his representative was not subject to censorship or control.

7. Article 26 of the Constitution guaranteed freedom of association in political parties and other organizations for the purpose of protecting rights and freedoms as well as political, economic, social, cultural and other interests. The 1992 Act concerning Citizens' Associations specified the status of such bodies and regulated their formation, commercial activities and legal responsibilities. Any such association that engaged in incitement to national or religious hatred or to curtailment of generally recognized human rights was denied legal status or disbanded. Responsibility for the legal recognition of citizens' associations lay with the Ministry of Justice and the local authorities. As of February 1998, 18 organizations for the protection of human rights were registered with the Ministry of Justice.

8. The Charity and Charitable Organizations Act of October 1997 provided for State support for benevolent and humanitarian organizations. The organizations registered with the Ministry of Justice in February 1998 included five benevolent funds for the protection of human rights, seven charitable organizations operating in Crimea on behalf of the Crimean Tatar population and the Roma Association of Ukraine. Roma organizations were also registered in the regions of Transcarpathia, Kiev, Odessa and Lvov.

9. Ukrainian bodies with special responsibility for implementation of the Convention included the Human Rights Commissioner or Ombudsman, the Parliamentary Committee on Human Rights, National Minorities and Relations among Nationalities, the Ministry of Justice, the State Committee on Nationalities and Migration, the Ministry of Foreign Affairs, the Ministry of Internal Affairs and the State Committee on Religion. The Constitutional Court was responsible for ensuring the constitutionality of legislation and article 43 of the Constitutional Court of the Ukraine Act accorded Ukrainian citizens, foreigners, stateless persons and bodies corporate the right to approach the Court for a legal opinion.

10. Legal information regarding the protection of national minorities could be obtained from the weekly Official Gazette of Ukraine and through legal education programmes, further training courses and human rights courses offered at institutes of higher education.

11. The Constitution and the legislation on languages and national minorities provided for voluntary education in minority languages. Article 10 of the Constitution guaranteed the free development, use and protection of Russian and other minority languages. Members of national minorities were entitled to use their national given name and family name and all privileges or discrimination on grounds of race, skin colour, language or other characteristics were prohibited.

12. All domestic procedures required for the entry into force of the European Framework Convention for the Protection of Minorities had been completed. Having appropriated a large volume of funds for its implementation, Ukraine hoped that some 12 million ethnic Ukrainians living in other States would benefit from comparable protection. A special State programme had been developed to address their cultural, educational, social and economic problems. The rights of Ukrainians resident abroad were currently protected primarily through multilateral and bilateral treaties. In that context, Ukraine was staunchly committed to observance of such principles of international law as territorial integrity and non-interference in the internal affairs of other States.

13. Article 10 of the Legal Status of Foreigners Act stipulated that foreigners permanently resident in the Ukraine were entitled to medical care on an equal footing with Ukrainian citizens. Medical care for other foreigners was subject to the provisions laid down by the Cabinet of Ministers.

14. The Information Act, which stipulated that information must not be used for incitement to racial hatred, was applicable to all information-related activities in every field of communal and public life. The Information Agencies Act, the Press in Ukraine Act, the Television and Radio Broadcasting Act and the Publishing Act not only prohibited incitement to racial and ethnic hatred but stipulated that those found guilty of such incitement were liable to prosecution under article 66 of the Criminal Code.

15. The Ukrainian authorities were doing their utmost to address political, legal and economic problems related to the return and resettlement of deportees. Under the Act concerning the Supreme Council of the Autonomous Republic of Crimea adopted on 10 February 1998, Crimean Tatars and other former deportees who had taken up permanent residence in Ukraine were not subject to the five-year residence requirement for election to the Supreme Council of Crimea. Pursuant to Decree No. 636 of 1995 concerning measures for the solution of problems in the Autonomous Republic of Crimea, a Programme of Priority Measures for the resettlement of deportees during the period up to the year 2000 had been adopted. It provided, inter alia, for major expenditure on housing, social facilities and infrastructure such as roads and telecommunications. However, the adverse economic situation had led to a sharp decline in funds and a corresponding slowdown in the resettlement programme, particularly with regard to housing. About 11,000 families were still on the waiting list and the rising cost of building materials meant that most returnees were unable to complete private home construction projects. The Government was therefore seeking alternative funding sources, notably from abroad.

16. To facilitate access to Ukrainian citizenship for former deportees, the Supreme Council had adopted amendments to the Citizenship Act, which abolished such requirements as five-year minimum residence, knowledge of the Ukrainian language and access to means of subsistence. As a result, almost 2,000 persons had acquired citizenship in the previous three months. Under paragraph 46 of Presidential Decree No. 385 of 1997, former deportees were guaranteed equal rights of participation in the process of privatization of State enterprises.

17. The Supreme Council was currently considering a bill concerning the rehabilitation and protection of the rights of members of repressed national minorities who had been deported from the territory of the Ukraine. A further important measure was the conclusion of an agreement between the Ministry of Education and the Council of Ministers of the Autonomous Republic of Crimea on State funding for the training of professionals in the social and cultural field under a special training and retraining programme for Crimea. Higher educational establishments had been training specialists since 1996 to meet the needs of the Autonomous Republic and the city of Sevastopol. The Republic's employment centre had also opened a vocational training facility for returnees.

18. A draft comprehensive State programme for the adaptation and integration into Ukrainian society of formerly deported Crimean Tatars would shortly be submitted to the Cabinet of Ministers. It provided for extension of the network of schools teaching through the medium of the deportees' native language and the provision of corresponding textbooks, teaching materials and dictionaries. An essential component of the programme was the set of priority measures for 1998-1999 designed to promote a revival of the culture of the Crimean Tatar people, including cultural values, the establishment of a system of educational, scientific and publishing activities in the Crimean language and the revival of historic Crimean toponyms.

19. The Act concerning the Supreme Council of the Autonomous Republic of Crimea stipulated that Council legislation would be published and disseminated in the Ukrainian, Russian and Crimean-Tatar languages.

20. Ukraine's national minorities included about 48,000 Roma. In 1990 the Roma of Transcarpathia had established three associations, the leader of one of which was also a deputy in the Regional Council. The associations focused on the promotion of educational and employment opportunities for young people and on social and cultural issues. They had relations with the Roma Parliament in Hungary and Roma organizations in other European countries. Since 1996, a number of schools in Mukacheve and Uzhgorod had begun to teach in the Roma language, using textbooks from neighbouring countries. There was an index of Roma cultural figures and the Roma theatre in Kiev had acquired State theatre status in 1995. Premises had been provided for the Roma Cultural Centre. In recent years, research had been undertaken on Roma religion, settlement and folklore. The ethnic and cultural interests of the Roma minorities would also be served by the State Programme (1994-2000) for the revival and development of the education of national minorities in the Ukraine, the annual State programme for the publication of literature in the languages of the national minorities and the draft State programme for the development of the culture of national minorities up to the year 2000.

21. Despite substantial progress in implementing the Convention, Ukraine was not intending to rest on its laurels. The fact that a totalitarian regime had held sway for more than 70 years had had a negative effect and required continuing efforts to consolidate democracy. Ukraine's ratification of the human rights instruments of the Council of Europe and recognition of the jurisdiction of the European Court of Human Rights, and its determination to ensure the practical incorporation of the mechanisms for the protection of human rights and fundamental freedoms with a view to ensuring stricter compliance with international human rights instruments, had brought the country closer to the achievement of its strategic goal: to build a citizens' society based on the rule of law. Consideration of the report should help the Committee to understand the difficulties faced by Ukraine and appreciate the appropriate and timely measures taken by State bodies and public organizations to protect and ensure the enjoyment of human rights.

22. Mr. van BOVEN (Country Rapporteur) said his sources of information in considering the State party report had included the oral information just provided by the delegation; the revised core document (HRI/CORE/1/Add.63/Rev.1), which had taken account of the new Constitution of 1996 in particular; legal texts; intergovernmental organizations; the concluding observations of other treaty monitoring bodies; and NGOs. He had been surprised by the statistics provided in the core document on life expectancy (paragraph 9): whereas in most countries it was increasing, the reverse trend was evident in Ukraine.

23. The country was clearly in a state of transition. It was also a complex country, with more than 100 nationalities. It had new constitutional structures and was facing issues relating to the return and needs of a large number of formerly deported people. Unfortunately, he found it necessary to repeat the Committee's concluding observations on the previous report (A/48/18): the report did not always specify exactly the extent to which the Convention was being implemented; legislation had still to be enacted to implement the punitive provisions of article 4; no information had been provided on complaints and convictions for acts of racial discrimination; and the demographic data could have been presented in a more illustrative way.

24. The structure of the report was on the whole unsatisfactory. Most of the information on article 2 of the Convention concerned relations between Church and State, which was outside the scope of the Convention unless religion was closely connected with ethnic or national origin, as sometimes happened, in which case it should have been explained. Information was needed on the actual implementation of the provisions of article 2, paragraph 1 (d). The information under article 3 bore little or no relation to the article. Were the amendments and supplements to the Act on National Minorities still in draft form? The information on article 66 of the Criminal Code related to article 4 of the Convention. The paragraphs on articles 4, 5 and 6 contained nothing on article 4; paragraphs 33-35 should have been dealt with under article 2; paragraphs 36-51 touched on article 5, but not from the viewpoint of the Convention; and paragraphs 52-56 related to article 6. What was included under article 7 was largely pertinent, except for paragraph 65, on access to public places and services, which was actually relevant to article 5 (f).

25. As to the content, he had never before seen a constitutional provision such as the one in article 12, on the rights of nationals residing abroad, but he conceded that, as there were between 10 and 12 million Ukrainians in that situation, there might be good reasons for it.

26. His attention had been drawn in particular to Chapter X of the Constitution, on the Autonomous Republic of Crimea. It was of special concern that Ukraine, which had been a member of the Council of Europe since 1995 and had ratified the European Convention for the Protection of Human Rights and Fundamental Freedoms and several of its protocols, had not ratified Protocol No. 6, on the death penalty. Normally that was not an immediate concern of the Committee, but on death penalty issues it was not unusual for certain ethnic or national groups to be more victimized than others. What was the Government's position?

27. The Framework Convention for the Protection of National Minorities had also been ratified, but had its ratification been accompanied by a statement of what Ukraine considered to be national minorities? The Convention did not define that and left it largely to the discretion of the State to indicate which minorities it covered.

28. He asked whether Ukraine was considering ratifying ILO Convention No. 169, on indigenous and tribal peoples in independent countries.

29. Paragraph 16 of the report, on national minorities, showed positive efforts in terms of legislation, measures taken in the field of language and culture and the creation of a climate conducive to peaceful coexistence. The World Directory of Minorities, published by the Minority Rights Group, had stated that Ukraine had still to foster a multi-ethnic sense of nationhood among its population. The liberal legislation on minority issues and the moderate reaction of the Government to ethnic questions, including the secessionist movement in Crimea, indicated that most politicians viewed Ukraine as a melting pot rather than as an ethnically defined State. Unless ethnic tensions were aggravated by external forces, notably Russian nationalists, minority relations were likely to develop peacefully.

30. How were the laws on national minorities applied? In the country as a whole, the Russians, who represented some 22 per cent of the population, were a national minority, but in Crimea, they were a majority, about 67 per cent, and Ukrainians a minority, at 26 per cent. What were the implications in terms of the use of language, schools, cultural establishments and so forth? He doubted whether international instruments provided a response to the question of the treatment of people belonging to the majority population of a State, but who constituted a minority in a particular territory or region of the same State. How did Ukraine view the situation?

31. How was article 11 of the Constitution interpreted and applied? United Nations documents and the Committee's own interpretation differentiated between indigenous peoples and minorities. Usually, the former were entitled to a broader scope of rights. Was there such a difference in Ukraine, and could examples be given of who were considered indigenous peoples? Did that designation include the Crimean Tatars, or were they viewed as a minority?

32. The return and rehabilitation of persons deported under the totalitarian regime (paragraph 18) was one of the dramas of history. He appreciated the efforts made to resettle and rehabilitate the 250,000 Crimean Tatars and others who had returned to Crimea in recent years. Despite limited resources, priority measures were being taken to resettle and house them, but there was a need for additional sources of funding. In that regard he recalled the Committee's General Recommendation XXII, on the rights of refugees and displaced persons, notably the right to have property returned to them. A new law on the rehabilitation of victims of political repression was currently under consideration. Did it deal with the return of property and restoration of civil rights?

33. The Act on Ukrainian Citizenship had been amended in 1997. Until recently, former deportees, notably those who had left Uzbekistan to resettle in Ukraine after July 1992, had had to contend with many bureaucratic and financial difficulties in seeking to acquire or regain Ukrainian citizenship, with the result that those people - many of them Crimean Tatars - had been de facto left stateless and deprived of certain basic rights and services. Was he correct in assuming that the 1997 amendment had abolished the five-year rule on acquiring citizenship? Could it be assumed that implementation of the amendment had removed unreasonable obstacles that discouraged the returning deportees from applying for citizenship? If so, it was a very encouraging development.

34. On the issue of languages, paragraph 17 of the report referred to the European Charter on Regional and Minority Languages; had it already been ratified? Paragraph 59 dealt with the unrestricted use of languages of national minorities in the national educational system, while paragraphs 60, 61 and 64 provided more detail about instruction in the different languages in schools and their use in the media. Article 3 of the Declaration on the Rights of Nationalities in Ukraine safeguarded the right of citizens to make free use of the Russian language in districts densely inhabited by members of several national groups; any language acceptable to the entire population of an area could be used alongside Ukrainian, the State language. What did that mean? Who decided on what was "acceptable"?

35. The information in the report on article 3 of the Convention was interesting, but was not related to the article in question. The next report should take due account of the Committee's General Recommendation XIX.

36. More information was needed to assess the extent to which the amendment to the Act on National Minorities, and article 66 of the Criminal Code, gave effect to the mandatory provisions of article 4. He had had to conclude that the State party had failed to meet its international obligations to provide that information.

37. The report mentioned constitutional provisions in connection with article 5 of the Convention, but the Committee needed to know if there was any further legislation ensuring implementation of that article.

38. He invited the delegation to comment on the allegations made by the European Roma Rights Center regarding the situation in Transcarpathia. It reported that the police were using so-called "prophylactic" measures to

prevent crime which were targeted at Roma. It catalogued a range of measures that could only be described as harassment and gross violations of human rights, including monitoring raids on entire neighbourhoods, group arrests on the basis of little or no evidence, physical violence, forced labour, unauthorized entry into Roma homes and, in at least two instances, sexual abuse of Roma women. Such allegations should be investigated without delay and law enforcement officials should be given human rights training in accordance with the Committee's General Recommendation XIII (42). Furthermore, generous legal assistance should be provided to the Roma people.

39. In connection with article 5 (d) (iii) of the Convention, Ukraine would be well advised to consider acceding to international instruments on statelessness. Concerning the right of access to public places and services (article 5 (f)), information was needed on case law resulting from implementation of article 66 of the Criminal Code.

40. With regard to article 6 of the Convention, were citizens and lawyers aware of recourse procedures provided for in international instruments, not least article 14 of the Convention? Although Ukraine had made a declaration under article 14, no cases had come before the Committee. What measures were being taken to publicize the right of individual petition? He asked whether there were statistical data on reparation or satisfaction in relation to implementation of article 56 of the Constitution.

41. Ukraine's attitude towards multilateral and bilateral agreements that protected the rights of Ukrainians abroad was to be commended. It was also gratifying to see that Ukraine had accepted the amendments to article 8, paragraph 6, of the Convention.

42. Ukraine had made strenuous efforts and had clear policies relating to improvement of the situation of national minorities and the return and rehabilitation of persons who had been deported in the past. It was to be hoped that a generous and liberal policy regarding their right to acquire citizenship would be pursued. Ukraine's cooperation with international bodies was also laudable. However, it should consider ratifying Protocol No. 6 to the European Convention for the Protection of Human Rights and Fundamental Freedoms concerning the abolition of the death penalty. The head of the delegation had assured the Committee that the concluding observations would be carefully studied and put into practical effect. He hoped that the records of the Committee's debate with the State party and the Convention itself would receive the same treatment.

43. Mr. RECHETOV welcomed the serious way in which Ukraine approached its obligations under the Convention, which was shown by the regular reports it submitted and the frank introductory statement made by the delegation.

44. One criticism was that the report and the oral presentation had dealt with Ukraine's links with European programmes and institutions before mentioning how it implemented the Convention, thus implying that it gave precedence to the European instruments. It should be remembered that those mechanisms were regional, while the Convention was universal in scope.

45. It was clear that relations with the Crimean Tatar population needed to be developed in Ukraine. He had received a report from the Mejlis of the Crimean Tatar people regarding discrimination against the Crimean Tatar people on the territory of Crimea which dealt with a range of problems that had been mentioned by the delegation but he also pointed out that Crimean Tatars had 14 seats on the Crimean Supreme Council, which seemed a reasonable figure. As the representative of Ukraine had said, much was being done to overcome the consequences of past injustices to Crimean Tatars and improve their conditions. More needed to be done to solve the problem of acquiring citizenship.

46. The report of the Mejlis drew attention to the fact that Crimean Tatars did not consider themselves to be a national minority or an indigenous people. It also stated that they claimed the right to self-determination in the form of national autonomy within the State of Ukraine. He wondered whether that meant that Crimean Tatars felt that the multifarious population of Crimea should be represented by one national group which accounted for only 11 per cent of the population. It should be borne in mind that the Committee unwaveringly stated that the territorial integrity of any State had to be ensured, and that the question of autonomy was not the Committee's concern.

47. During the discussion on the previous reports of Ukraine (CERD/C/197/Add.5 and CERD/C/226/Add.3), the delegation had informed the Committee that the Ukrainian Supreme Council had passed an Act on the status of the Crimean Autonomous Republic guaranteeing it a broad range of powers, with only three limitations. It had not been granted external sovereignty; it had not been vested with the power to grant its own citizenship; and it functioned under the representation of the President of Ukraine. It was not clear what the latter provision meant and whether the limitations still stood.

48. He asked for clarification as to the status of the Russian language in Ukraine and in individual regions (oblasts). Was the draft Constitution of Crimea, which would have made Russian, Ukrainian and the Crimean Tatar language official languages, in force? What special local administrative acts on the use of language were in force in Kharkov, Donetsk and Dnepropetrovsk? The Committee also needed information on the use of languages in the mass media.

49. He asked whether, in principle, decisions of an economic nature were taken at the local level. He also wondered about the situation regarding the decision to harmonize Crimea's time zone with that of Ukraine and ensuing economic losses to Crimea.

50. Information was needed on possible economic discrimination against ports in Crimea, such as the port of Kerch, resulting from the Ukrainian authorities' decision in August 1996 to remove the right to handle goods that brought in the most profit, such as vodka and brandy.

51. The CHAIRMAN endorsed the comments made by Mr. Rechetov concerning the universality of the Convention and the precedence that should be given to it over regional instruments.

52. Mr. GARVALOV applauded Ukraine's efforts to implement the provisions of the Convention and the Government's willingness to admit that problems persisted.

53. More details of the demographic composition of Ukraine were needed. Similarly, there was a dearth of specific information on article 4 of the Convention and also on the implementation of article 7.

54. He welcomed Ukraine's policies on regulating inter-ethnic relations and the fact that it had recognized the 130 nationalities and ethnic groups that lived in its territory, adopted legislation to give effect to its policy of promoting and protecting national minorities on its territories and signed and ratified certain conventions.

55. What was the difference between what were referred to in the report as "national minorities" and "ethnic groups" in terms of their exercise of civil and political rights?

56. He asked which institution was responsible for drawing up the State Convention for the Protection of Human Rights referred to in paragraph 13 of the report.

57. Concerning the Crimean Tatars, some questions remained unanswered. For instance, what prevented the Crimean Tatars from having Ukrainian nationality restored? Why had their Autonomous Republic had a different status since 1991 from that of the other regions? Was their forced deportation by Stalin in 1944 not a sufficiently valid reason for restoring their Ukrainian nationality? According to the report referred to by Mr. Rechetov, Crimean Tatars returning from Uzbekistan would first have to renounce their Uzbek nationality, because Ukraine did not recognize dual nationality. He wondered whether that was consistent with Ukraine's obligations under the Agreement on questions relating to the restoration of the rights of deported persons, national minorities and peoples (Bishkek Agreement), which Ukraine had ratified in 1993 and Uzbekistan in 1992.

58. Paragraph 60 of the report stated that only one school provided instruction in the Crimean-Tatar language. According to paragraph 61, some 60 Sunday schools had been created, at which over 73,000 pupils learned their mother tongue, yet why should the Tatar, Turkish, Turkish-Meskhetian and Uzbek minorities, whose members were mostly Muslims, have Sunday schools? Had there been Friday schools, he could understand, it being the day of prayer for Muslims.

59. According to paragraph 6 of the revised core document (HRI/CORE/1/Add.63/Rev.1), the Bulgarian minority was one of the country's largest, yet paragraph 60 of the report contained no information on any schools for the Bulgarians. Did that mean that the Bulgarians were not interested in maintaining or promoting their own language because they were so assimilated, or was it because the State party had not taken adequate measures to ensure that there were schools and classes providing instruction in Bulgarian?

60. Mr. Yutzis took the Chair.

61. Mr. VALENCIA RODRIGUEZ referred to the Constitutional provision, mentioned in paragraph 6 of the report, that international agreements which had been ratified by Ukraine's Supreme Council were part of national legislation. He interpreted that to mean that the Convention could be invoked in and applied by the courts. Could any examples be cited in which that had been done?

62. It would be useful for the Committee to have some information on legislation giving effect to article 24 of the Constitution prohibiting racial discrimination (paragraph 7). Article 26 guaranteed foreigners and stateless persons who were in Ukraine on legal grounds the same rights and freedoms as citizens, with exceptions established by the Constitution, laws or international treaties of Ukraine. Could examples be provided of such exceptions?

63. He welcomed the information in paragraphs 8 to 11 on the European human rights instruments which Ukraine had signed, as well as the statement (paragraph 14) that legislative action was being taken to bring national legislation into line with European norms and standards and that legislation was being drafted on the legal status of foreigners and stateless persons. Could the parts of those instruments of relevance to the Convention be made available to the Committee?

64. With regard to paragraphs 15 and 16, he asked the Ukrainian delegation to provide the texts of laws designed to preserve the national cultural identity of its ethnic groups and to inform the Committee of results of the practical implementation of the new laws enumerated in paragraph 16.

65. He welcomed the efforts by Ukraine to promote the return of persons deported under the totalitarian regime on grounds of national origin (paragraph 18).

66. Concerning article 3 of the Convention, he was pleased to note that the prohibition under article 18 of the Act on National Minorities in Ukraine was in the process of being extended to include acts intended to incite inter-ethnic, racial and religious hostility (paragraph 27). Could more information be provided on steps taken to punish such acts? Paragraph 29 made mention of article 37 of the Constitution, pursuant to which political parties and public associations whose programme goals or actions were aimed at incitement of inter-ethnic, racial or religious enmity were prohibited. Had that provision been applied? He observed that article 4 of the Convention concerned not only such prohibition but also required States parties to make the creation and functioning of such parties a punishable offence. Were there any other provisions in the Criminal Code which punished such acts?

67. Paragraphs 35 to 38 referred to free choice of residence and the right to leave the territory of Ukraine, with the exception of restrictions established by law. What types of restrictions were meant? Despite efforts to liberalize legislation on procedure governing departure from and entry into the country, the practice of granting authorization for single and multiple trips persisted (paragraph 37). Why had some applications to stay abroad been rejected (paragraph 38)? Could the Committee be assured that it was not for reasons of national or ethnic origin?

68. With reference to paragraph 52 of the report, he noted that Ukraine recognized the right of citizens to appeal to international bodies, for instance, pursuant to article 14 of the Convention. Had Ukrainian citizens been made aware of their right to do so? Such information should be provided in the languages of the largest minorities.

69. Could the Committee be informed about the main results of the effort to reform the judiciary so as to ensure its impartiality and independence (paragraph 56)?

70. He was pleased that instruction was given in the languages of the various minorities and that efforts were being made to satisfy the educational requirements of national minorities more fully (paragraphs 60-61). Could Ukraine inform the Committee about the further development of such initiatives?

71. Concerning paragraph 64, it would be useful to have more information on the functions of the interdepartmental commission in respect of publications inciting ethnic or racial hatred. What action had the commission taken in such cases?

72. In closing, he said that the report of Ukraine and the Committee's concluding observations should be published both in Ukrainian and in the main minority languages.

73. Mrs. ZOU Deci referred first to the lack of information in the report on the country's demographic structure. According to paragraph 6 of the revised core document (HRI/CORE/1/Add.63/Rev.1), there were 130 nationalities and ethnic groups in Ukraine, accounting for 25 per cent of the total population, but the same paragraph only provided information on a few of them. That made it difficult to have the full picture or to assess Ukraine's compliance with the Convention. She therefore asked the Ukrainian delegation to provide the Committee with comprehensive demographic statistics.

74. The report contained no information on implementation of article 4 of the Convention; in his oral presentation, the head of the Ukrainian delegation had stated that the Criminal Code had been brought into line with article 4. She sought further details on that matter. How was the revised version of the Criminal Code applied? Could information on specific cases involving racial discrimination be made available to the Committee?

75. According to paragraph 34 of the report, representatives of 12 nationalities were deputies in Ukraine's Parliament. Could the Committee have the exact figures? What percentage of the Parliament's total number of deputies did that constitute? Also, given that there were 130 national minorities in Ukraine, why did some of them have no representation in Parliament? What was the current situation of those other nationalities?

76. Mr. de GOUTTES welcomed the oral presentation of the delegation of Ukraine updating the fourteenth periodic report and giving the Committee a clearer idea of the current situation, as well as the declaration which Ukraine had made under article 14 of the Convention.

77. Concerning the situation of the churches and their new ties to the State, the report did not exclude the possibility of further religious flare-ups owing to interdenominational conflicts (paragraphs 24-25), which stemmed from attempts by various denominations (Orthodox and Catholic) to expand their spheres of influence and disputes over the use of local temples and were also the result of interference by certain local authorities in religious and church matters. That did not sound very encouraging; he sought further information on the current situation and asked whether the delegation could cite examples of the most serious interdenominational conflicts.

78. Regarding the implementation of article 4 and the fact that the Criminal Code made all acts of racism an offence, updated information was needed. The references in paragraph 31 to a new version of article 66 of the Criminal Code and in paragraph 27 to draft provisions amending existing laws were clearly insufficient to demonstrate compliance with article 4 (a), (b) and (c) of the Convention. Likewise, the report contained no data on complaints, sentencing or compensation.

79. He was surprised by the dearth of information in the report on the situation of the Roma in Ukraine. A number of NGOs, particularly the European Roma Rights Center and Amnesty International, had reported persistent serious discrimination against the Roma, including ill-treatment and violence at the hands of the police and in prisons and discriminatory practices on the part of the judicial authorities. Could the delegation of Ukraine provide more comprehensive information on that matter? What was the percentage of death sentences pronounced and carried out against Roma? In view of Ukraine's accession to the Council of Europe in 1995 and the commitment it had made at that time to introduce a moratorium on capital punishment, it would be interesting to know the position of the Government of Ukraine on the abolition of the death penalty, even if, strictly speaking, the question did not fall directly within the Committee's ambit. If he was not mistaken, in 1997 the Council of Europe's Parliamentary Assembly had adopted a resolution protesting against the continuation of executions despite the moratorium.

80. What was the role played by the convention on human rights concluded several years previously by the members of the Commonwealth of Independent States? It had been announced that those States had agreed to create a court for the protection of human rights. Could the Ukrainian delegation inform the Committee of any new developments in that area?

81. Mr. DIACONU said that Ukraine was a country which was trying to consolidate its statehood and independence. He noted that Ukraine had concluded a number of treaties with its neighbours recognizing existing borders, containing major provisions on minorities and creating a bilateral mechanism to monitor their implementation. A bilateral form of cooperation had also been created, the so-called Euro-region. Two such Euro-regions had been created between Romania and Ukraine in areas on either side of the border where minorities from the other country lived; those agreements ensured better conditions for promoting their cultural, linguistic and religious rights. That was a positive development, as were the similar agreements with Romania, Hungary and Poland. An agreement had also been concluded with the Russian Federation, but it had not yet been ratified by the State Duma.

82. The problem currently facing Ukraine had been to raise the level of instruction of the Ukrainian language, because for a long time Ukrainian had been discriminated against and not studied in school. The Government of Ukraine was also attempting to take into account the languages of minorities living on its territory. As the Country Rapporteur had rightly pointed out, there were minorities within minorities, and they must also be protected under the Convention.

83. He sought information from the delegation of Ukraine on the status of the Roma population, how it was protected and whether acts of violence had been committed against its members.

84. As in other countries of the region, educating judges and members of the police force in the spirit of the Convention was of vital importance.

The meeting rose at 6.05 p.m.



**International Convention on
the Elimination
of all Forms of
Racial Discrimination**

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COMMITTEE ON THE ELIMINATION OF RACIAL DISCRIMINATION

Fifty-second session

SUMMARY RECORD OF THE FIRST PART (PUBLIC)* OF THE 1257th MEETING

Held at the Palais des Nations, Geneva,
on Tuesday, 10 March 1998, at 10 a.m.

Chairman: Mr. ABOUL-NASR

CONTENTS

ORGANIZATIONAL AND OTHER MATTERS (continued)

CONSIDERATION OF REPORTS, COMMENTS AND INFORMATION SUBMITTED BY STATES PARTIES
UNDER ARTICLE 9 OF THE CONVENTION (continued)

Thirteenth and fourteenth periodic reports of Ukraine (continued)

* The summary record of the second part (closed) of the meeting appears
as document CERD/C/SR.1257/Add.1.

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at this session will be consolidated in a single corrigendum, to be issued
shortly after the end of the session.

GE.98-15513 (E)

The meeting was called to order at 10.15 a.m.

ORGANIZATIONAL AND OTHER MATTERS (agenda item 5) (continued)

1. The CHAIRMAN invited Mr. Banton, Rapporteur of the Committee, to report to the experts on the issues dealt with that morning by the Bureau.
2. Mr. BANTON (Rapporteur) asked the members of the Committee to state the questions they wished to raise when the High Commissioner for Human Rights came to meet with the Committee the following afternoon; that meeting would be presided by Mr. Diaconu. Before the end of the session, the experts would be informed of the outcome of the Bureau's deliberations on the date and place of forthcoming sessions of the Committee, as well as of the financial implications of the proposed decision. In view of the difference of opinion on the formulation of the Committee's conclusions, the Bureau would like to know what the experts thought of an approach which he had designed and which represented a compromise solution. The members' opinions were also requested on the arrangements described in note CERD/C/52/Misc.23 in order to improve the briefing to be given to States parties before their delegations came before the Committee. He called on the experts who were specialists in international law to formulate their observations on the draft comments by the International Law Commission on reservations so that a Committee statement on the matter could be prepared.

CONSIDERATION OF REPORTS, COMMENTS AND INFORMATION SUBMITTED BY STATES PARTIES UNDER ARTICLE 9 OF THE CONVENTION (agenda item 7) (continued)

Thirteenth and fourteenth periodic reports of Ukraine (continued)
(CERD/C/299/Add.14; HRI/CORE/1/Add.63)

3. At the invitation of the Chairman, the delegation of Ukraine resumed its place at the Committee table.
4. Mr. SHAHI said that, given the current upheavals in Ukraine, particularly in the economic and social fields, its efforts to ensure good inter-ethnic relations and the initiative it had taken to succeed the Soviet Union in respect of international human rights instruments were all the more praiseworthy.
5. Even though the Convention was directly applicable, which was a logical consequence of what was stated in paragraph 6 of the report (CERD/C/299/Add.14), Ukraine was bound to enact specific legislation prohibiting racial discrimination, as required by article 2 (d) of the Convention. Racist associations had been declared illegal, but there was no mention in the report of any penalties being imposed against such organizations. The next report of Ukraine should give the required additional information on the implementation of article 4 (a) and (b) of the Convention.
6. Given the strongly multi-ethnic nature of Ukraine, as illustrated by the statistics in paragraph 6 of the core document (HRI/CORE/1/Add.63), it was surprising that only about five or six minorities, which were always the same

ones, were mentioned in the report. The next report should devote more space to the country's demographic diversity, perhaps using the information provided by the Russian Federation on its demographic composition as a model.

7. Among the minorities mentioned were the Tatars, who were finally being compensated for 15 years of injustice by being granted the right to resettle in Crimea. That measure had been long in coming, but he associated himself with those of his colleagues who had already commended Ukraine for having taken it. He asked what other nationalities also had the right to resettle in the territories from which they had been deported. Paragraph 60 of the report mentioned only one school where instruction was in Crimean-Tatar, but he was sure that others would be created. He also hoped that the Tatars, who had been compelled to acquire Uzbek citizenship, would recover their original citizenship without difficulty.

8. Noting, as Mrs. Zou had done, that only 12 nationalities were represented in Parliament, he said he was sure that, as long as democracy and respect for the rule of law made headway, other groups would also be duly represented.

9. The fifteenth periodic report of Ukraine should provide additional information on the implementation of articles 4, 5 and 6 of the Convention.

10. Mr. NOBEL said that, according to paragraph 55 of the report, the post of ombudsman was being created, which was a thoroughly commendable initiative. The question remained as to what his status, powers and mandate would be, whether he would enjoy parliamentary immunity, whether he would be vested with full investigative and decision-making powers, whether he would be empowered to receive complaints and whether he would have the resources, particularly human resources, necessary to handle them.

11. The Committee should also welcome the information contained in paragraph 65 on the right of access by all without discrimination to all public places and services, but there were other areas, such as the labour market, housing and financing, which were equally important.

12. With regard to the implementation of article 6 of the Convention, which required the State party to guarantee the right of victims of racial discrimination to seek just and adequate reparation, compensation should apply not only to economic loss, but also to humiliation suffered. Account should also be taken of the preventive effects of the right to compensation.

13. Like previous speakers, he felt compelled to return to the issue of the Roma, who, after having suffered so much, were still the victims of discrimination throughout Europe. One had only to read the report of the European Roma Rights Center, which dealt only with the Transcarpathian region of Ukraine, but nonetheless contained very detailed information.

14. As frequently happened, the blame was placed on the victims themselves, and not on the society that denied them their rights. The Roma, for example, were said to be over-represented in crime statistics and, although they often were, most crimes were committed among the poorest and most vulnerable segments of society.

15. As to the word "Gypsies", used by the head of the delegation of Ukraine, the word "Roma" was preferred by the members of the Committee, who also spoke of Sami and Inuits to designate the groups formerly called Lapps and Eskimos.

16. Mr. RECHETOV said that he wished to clarify a misunderstanding about the name of the peoples variously referred to as Gypsies, Roma, "Gitanes" and so forth. In Russian, there was only one word, which was the word "Gypsies", and there was nothing pejorative about it.

17. The CHAIRMAN said that it would be useful to think about the question of terminology, as the persons concerned often had preferences of their own based on their place of origin. In Arabic, the Roma were designated by yet another name.

18. Mr. SHERIFIS said that he wished to come back to several points which had already been stressed by some speakers and which were particularly important.

19. The right to equal access to public service (art. 5 (c) of the Convention) was of fundamental importance since there were so many minorities and some of them were so large. Ukraine had indeed adopted laws guaranteeing minority rights and some minorities were represented in Parliament. But what about their representation within the Executive branch? Although there were disadvantages to the quota system, Ukraine could view it as a way of giving minorities a political existence.

20. Article 5 (e) proclaimed the right to work and the delegation of Ukraine had stated that full employment was a reality in the State party. He wished to know whether that was still the case and, if not, what the situation of minorities was vis-à-vis the rest of the population.

21. With reference to the implementation of article 7 of the Convention, he recalled the Committee's General Recommendation V, paragraph 2 (c) of which drew the attention of States parties to the fact that they must promote the purposes and principles, inter alia, of the International Convention on the Elimination of All Forms of Racial Discrimination. He asked the delegation what the authorities were doing to meet that objective and whether, for example, the Convention was discussed on television.

22. The creation of the post of ombudsman also struck him as an excellent initiative, but he would like to know more about its activities and how it worked.

23. The measures taken by Ukraine to prevent all manifestations of inter-ethnic discrimination and the establishment, announced in paragraph 64 of the report, of a special interdepartmental commission with powers to evaluate any adverse social tendencies reflecting racism, chauvinism and religious intolerance, were to be commended. He wished to know whether that commission was working on the basis of the Committee's General Recommendation XVII. The wording of the paragraph suggested that other mechanisms had also been established; if so, the Committee would like to be told about them.

24. The restoration of the inalienable right of the Tatars to resettle in Crimea was entirely to Ukraine's credit. He referred to the Committee's General Recommendation XXII, which stated that refugees and displaced persons had the right "to have restored to them property of which they were deprived ... and to be compensated appropriately for any such property that cannot be restored to them".

25. In the concluding paragraph of the report, the Government stated that it subscribed to the generally recognized norms of international law and specifically the principles of "inviolability, territorial integrity and non-interference in the internal affairs of other States". The Committee endorsed such an attitude without reservations.

26. Mrs. SADIO ALI, referring to paragraphs 24 to 26 of the report, asked whether the divisions in the Churches were based on ethnic alignments. While she welcomed the measures taken by the Government on behalf of the Roma, particularly the registration of several Roma organizations, she wondered whether the Roma language had been standardized or whether it was only spoken.

27. According to a report of the European Roma Rights Center, the Roma living in the Transcarpathian region were poor and marginalized. They were subject to discriminatory treatment by the police and the non-Roma population. Furthermore, they were targeted as potential criminals. The forced registration to which they were subjected constituted a violation of article 5 (b) of the Convention. If the reform of the police had not yet been undertaken, it should be, as the way the police functioned had changed since independence. The recruitment of Roma into the security forces should also be encouraged.

28. According to that same report, the legal system was overburdened and the Roma were unable to benefit from due legal assistance. Furthermore, they had difficulty understanding the Ukrainian language and what judges said to them. The extremely low salaries of members of the judiciary in the Transcarpathian region encouraged corruption.

29. According to Mr. Shaketa, the Mukacheve City Counsellor who acted as mediator between the local authorities and the Roma community, the Roma usually held unskilled jobs, for example, cleaning buildings or collecting scrap metal or paper. In addition, they were particularly hard hit by unemployment. She wondered what was being done to implement article 5 (e) (i) of the Convention.

30. In Telman, the Roma sometimes lived without either water or electricity. They were particularly vulnerable to illness and the European Roma Rights Center said that Roma were forced to eat dogs and raid garbage dumps to survive.

31. As most of the Roma were illiterate, the State party was violating article 5 (e) (iii), (iv) and (v) of the Convention and was not taking into account the Committee's General Recommendation XIX on article 3 of the Convention.

32. She encouraged the State party to accede to the European Framework Convention for the Protection of National Minorities and the European Charter on Regional and Minority Languages.

33. Mr. YEFIMENKO (Ukraine) said that article 9 of the Constitution penalized racial discrimination and that the international treaties to which Ukraine had acceded were a part of national legislation. Racial discrimination was defined in conformity with article 1 of the Convention.

34. There was no reference in the Constitution to "ethnic minorities", but to "national minorities". Article 3 indicated that national minorities were Ukrainian citizens who were not of Ukrainian nationality, but who were recognized as being part of a separate community. Under article 11 of the Constitution, the State contributed to the consolidation of the nation and the development of the indigenous peoples and national minorities of Ukraine. The Constitution also provided that State bodies and national and municipal authorities must act solely in conformity with the Constitution and the law. Everyone in Ukraine had the right to come before the courts and, if necessary, to file suit against the State and to request compensation if his rights had been violated by officials. There were no cases in Ukraine of the denial of justice. In 1993 and 1997, respectively, 76 and 188 complaints had been filed against the State and 167,263 roubles and 455,700 roubles, respectively, paid to the plaintiffs in damages.

35. Parliament also guaranteed respect for the rights of victims of racial discrimination. It also ensured respect for international norms in that field. The Supreme Council of Ukraine ensured the proper functioning of the Human Rights Institute, a private body which was not part of the Government and whose activities could not be hindered.

36. The General Prosecutor's Office of Ukraine was competent to ensure the protection of human rights. Article 59 of the Constitution stated that every citizen had the right to a lawyer of his choosing and to free legal assistance.

37. Much importance was attached to public information in Ukraine. The media were used to publicize human rights and the Ministry of Justice published information on the international treaties to which Ukraine was a party. Furthermore, judicial decisions were published in the Official Gazette. Individuals could consult law materials in public libraries. For several years, an effort had been under way to develop human rights education at the university level.

38. Magistrates and judges were independent and the cases before them were considered by panels. Article 129 of the Constitution reinforced the independence of the courts and the judicial system. Ukraine had drawn largely on the experience acquired in countries with more advanced legal systems. It had also been considerably inspired by a Canadian project on the organization and functioning of the courts.

39. Election to the Parliament of Crimea required at least five years' residence in Ukraine. The Autonomous Republic of Crimea was competent in the

following fields, inter alia: agriculture, forestry and quarry development, hunting and fishing, tourism, public transport, road and railroad infrastructure and health-care services.

40. Since 1992, the Ministry of Justice had registered 960 citizens' associations for the various nationalities. There were 53 political parties in Ukraine. A law on the creation and functioning of religious organizations was currently in draft form. The authorities were determined that all forms of authoritarianism in that field should be eliminated.

41. In order to prevent organizations from pursuing unacceptable objectives under the cover of cultural activities, the authorities carefully examined the statute of associations prior to registering them.

42. Acts of racial discrimination in Ukraine were not widespread. The attacks against Tatars in Feodosiya (Crimea) in June 1995 were isolated events. In any case, all the circumstances should be taken into account in analysing incidents involving national minorities. In addition, in 1996 and 1997, no sentences for racial discrimination had been reported.

43. As called for by the law, as well as by international agreements concluded with the Russian Federation, among others, Ukraine had fulfilled its obligations with regard to the restoration of property belonging to displaced persons. That was the case of the Crimean Tatars.

44. As to the implementation of article 2 of the Convention and in conformity with what was stated in the report, foreigners enjoyed the same rights and the same duties as Ukrainian citizens under articles 24 and 26 of the Constitution.

45. In reply to the comments on the death penalty, he said that it had been suspended sine die for all those sentenced and no request for a presidential pardon had been turned down. The problem of the persistence of the death penalty in Ukrainian criminal law had already been brought before the Council of Europe and Ukraine was planning to amend its Criminal Code and to abolish it.

46. Mr. GARVALOV said he regretted that the delegation of Ukraine had not replied to the questions he had raised at the preceding meeting on the situation of the Bulgarian minority. Were the Bulgarians able to preserve their language and were there schools which provided instruction in Bulgarian?

47. Mrs. KOVALSKA (Ukraine) said that problems of language and culture which dated to the Soviet era arose not only for minorities, but also for Ukrainians themselves.

48. With regard to the Bulgarians in particular, most of the schools which had existed in the 1930s and had been closed under the Communist regime had now been reopened. There were some 13,000 Bulgarian students in Ukrainian secondary schools, about 800 of whom had chosen to study the Bulgarian language as an elective. She could provide Mr. Garvalov with more information on the subject after the meeting.

49. Mr. RECHETOV said that, as a jurist, the head of the Ukrainian delegation, Mr. Yefimenko, had a tendency to cite legal texts in replying to questions raised, instead of explaining what was really going on in practice. Some important points had still not been clarified. What was the current status of the Russian language in Ukraine? It was not enough to say that those questions were covered by a federal law. It would be interesting to have more details and information, for example, on the use of Russian in daily life or the preservation of Russian culture.

50. He would like to know what the functions of the Parliament of the Autonomous Republic of Crimea were. Had the powers of the former "Supreme Soviet" of Crimea been weakened? He thought he had understood that that Parliament was no longer empowered to decide on certain issues, such as the study of Tatar. What exactly was the situation?

51. Mrs. KOVALSKA (Ukraine) said that the Russian language continued to enjoy a special status in Ukraine, where 22.5 per cent of the population was of Russian origin. Russians represented more than 40 per cent of secondary school students and more than 50 per cent of students of higher education. That meant that the Russian culture was in no way threatened and that the concern of the Government was rather to develop the language and education of other ethnic groups and to do away with the excesses of the former policy, in accordance with the Act on National Minorities.

52. The problems in Crimea concerned not only the Tatars, but also the Ukrainians, who had only one school, and the members of other minorities who had resettled in the peninsula, including Armenians, Bulgarians, Greeks and Germans. The Government was doing its best to protect the rights of the peoples living in that republic and there was no question of violating its autonomy.

53. Mr. van BOVEN (Country Rapporteur), summing up the debate, said that he wished to refer again to the matter of the return of deportees, which was still on the agenda of several international bodies, including the Organization for Security and Cooperation in Europe (OSCE). The efforts of the Government to compensate those persons and encourage their reintegration were praiseworthy and were welcomed by the Committee. However, the Committee was still concerned about the situation of the Roma. The doubts expressed on that subject by many members of the Committee had not been dispelled.

54. Another question on which the Committee would like more details was that of remedies available to the victims of discrimination. Could the Ombudsman really influence the implementation of the Convention? In particular, did he have investigative powers? The role played by the courts in that regard was obviously very important and the ability to benefit from legal assistance was to be commended. Any person whose rights had been violated should be able to have access to a court and to know what was required in order to apply for a remedy. That presupposed a certain level of education and experience showed, for example, that, if one had to come before a court in order to claim one's right to compensation, that right often remained a dead letter.

55. Although the delegation had explained that the main provision which could be invoked in order to bring about the implementation of article 4 of

the Convention was article 66 of the Criminal Code, it had not cited any jurisprudence based on that article, which created doubts as to its practical usefulness. Stronger instructions should be given to judges in order to deal with those problems. Generally, an effort must be made to see that judges were more familiar with the Convention, and particularly article 14, and that they received specialized training in that regard. Information on the remedies available under article 14 should also be disseminated to the public.

56. With regard to more technical questions, he welcomed the fact that Ukraine was implementing a moratorium on the death penalty.

57. In its next report, the State party should follow the Committee guidelines to the letter and take due account of the recommendations made to it and follow up thereon.

58. He urged Ukraine to ensure the broadest possible dissemination of the provisions of the Convention throughout its territory.

59. The CHAIRMAN said that the Committee had thereby concluded its consideration of the fourteenth periodic report of Ukraine.

60. The delegation of Ukraine withdrew.

The public part of the meeting rose at 12.10 p.m.



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COMMITTEE ON THE ELIMINATION OF RACIAL DISCRIMINATION

Fifty-second session

SUMMARY RECORD OF THE 1258th MEETING

Held at the Palais des Nations, Geneva,
on Tuesday, 10 March 1998, at 3 p.m.

Chairman: Mr. ABOUL-NASR

CONTENTS

CONSIDERATION OF REPORTS, COMMENTS AND INFORMATION SUBMITTED BY STATES PARTIES
UNDER ARTICLE 9 OF THE CONVENTION

Thirteenth periodic report of Lebanon

Review of the implementation of the Convention in States parties whose
reports are excessively overdue

Saint Lucia

ACTION BY THE GENERAL ASSEMBLY AT ITS FIFTY-SECOND SESSION:

- (b) EFFECTIVE IMPLEMENTATION OF INTERNATIONAL INSTRUMENTS ON HUMAN
RIGHTS

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GE.98-15521 (E)

The meeting was called to order at 3.15 p.m.

CONSIDERATION OF REPORTS, COMMENTS AND INFORMATION SUBMITTED BY STATES
PARTIES UNDER ARTICLE 9 OF THE CONVENTION (agenda item 7) (continued)

Thirteenth periodic report of Lebanon (CERD/C/298/Add.2;
HRI/CORE/1/Add.27/Rev.1)

1. At the invitation of the Chairman, Mr. El Khazen and Mr. Maamari (Lebanon) took places at the Committee table.

2. Mr. MAAMARI (Lebanon), introducing the thirteenth periodic report of Lebanon (CERD/C/298/Add.2), said that the Lebanese community or religious system had often been called "personal federalism", as opposed to ordinary federalism with a territorial basis. Under the 1926 Constitution, the communities were to be equitably represented in public employment and in the composition of the Government. There was also an unwritten agreement, known as the National Pact, whereby the President must be a Maronite Christian, the President of the Chamber of Deputies a Shi'ite Muslim, and the Prime Minister a Sunni Muslim. The fact that the system was consistent with a representative parliamentary democracy should be stressed. The most recent legislative elections, by universal suffrage, had been held in 1996.

3. The constitutional amendments of 1990 had marked the end of a 15-year period of disturbances and war. The new article 95 called for the step-by-step elimination of political confessionalism, but most Lebanese did not yet seem ready to abandon the system.

4. Lebanon had never adopted any doctrine of superiority based on racial distinctions or any policy based on racial hatred. It did not harbour any groups that maintained that there was a scientific basis for racial differences. There was no propaganda, and no group, in Lebanon that drew on ideas or theories based on racial or ethnic superiority. During the apartheid regime in South Africa, Lebanon had severed diplomatic relations with that country. Article 317 of the Criminal Code provided for the punishment of acts, words or statements whose object or effect was to excite religious or racial hatred, while article 318 prohibited membership of associations founded for such purposes. Disturbance of religious practice, and destruction of religious symbols, were punishable by imprisonment.

5. Human rights in general had not been absent from the concerns of the Lebanese Government in recent years; the new preamble to the Constitution recognized the principle of equality of citizens, the need for a balanced development of the regions and the right of all Lebanese to reside in any part of the territory. It was forbidden to distribute the population geographically on the basis of any affiliation.

6. A Ministry of Displaced Persons had been established to ensure the voluntary return of persons displaced from their original places of residence, and significant progress had been made in the area of equal rights for women and the rights of the child. Of particular relevance to the Convention,

alongside the Chamber of Deputies' Committee on the Rights of the Child, was its Internal Regulations and Human Rights Committee, which would welcome the Committee's comments at the current session.

7. Mr. GARVALOV (Country Rapporteur) said he agreed with the delegation's statement that the Lebanese system was consistent with a representative democracy. Seventeen years had elapsed since the submission of Lebanon's previous periodic report, but there were good reasons for the delay. The illegal occupation of southern Lebanon and West Bekaa still prevented the State party from implementing the Convention throughout the whole of its territory. Few States parties had witnessed such difficulties. In recent years, however, the political crisis appeared to have been resolved, and he welcomed the resumption of Lebanon's dialogue with the Committee. In addition to being prepared in accordance with the Committee guidelines, the report elaborated on Lebanon's views on article 1 of the Convention, as seen through the prism of its community or religious system and its constitutional arrangements. Lebanon was a special case with its religious communities, which formed the Lebanese people as a whole.

8. He asked for clarification of a possible discrepancy between the term "unitary State" and the statement that the Lebanese people were made up of "various religious communities" with enormous powers in Lebanese society, including the power to have family matters settled by religious courts. The reference in paragraph 17 to "personal federalism" within a unitary State compounded the need for clarification. He was grateful to the State party for raising two questions which he himself wished to ask - whether the religious communities were ethnic groups, and whether the Lebanese were classified according to their origins (paragraph 19). He added that Greeks and Armenians of Catholic or Orthodox persuasion were, respectively, of Greek or Armenian origin, whether or not they followed Byzantine forms of worship. Referring to paragraph 21 of the report, he asked whether Lebanon then recognized the existence of certain racial or ethnic groups or individuals within society.

9. Another important admission was that what had originally been viewed as a safeguard of rights and freedoms had been seen by some as an impediment to the freedom of individuals who did not wish to identify themselves with a particular group (paragraph 22). Perhaps that called for further explanation.

10. He would appreciate an explanation of the differences in the lists of, and figures for, the main minority groups between the core document (HRI/CORE/1/Add.27, para. 7) and the World Directory of Minorities published by the Minority Rights Group International. Among the immigrant communities listed in the Directory were the Kurds, who spoke Kurdish and were undoubtedly ethnically different from the majority of the population.

11. If the ethnic element had not been part of Lebanese society at the time when the Criminal Code had been drafted (1954), why then had the Lebanese legislators deemed it necessary to include it in a separate amended provision of the Code? By introducing the term "ethnic factionalism" they had been both far-sighted and unafraid to "call a spade a spade".

12. The constitutional amendments of 1990, providing for the gradual elimination of political confessionalism and abolishing the rule of confessional representation, would undoubtedly take a long time to be generally accepted, since there was still resistance to the elimination of confessionalism, as the State party admitted. He saw a distinct role for the Government in educating society on the need for acceptance and would appreciate more information on that important problem.

13. There appeared to be a discrepancy between the statement in paragraph 26, that the State did not sponsor, defend or support acts or attitudes of racial discrimination and paragraph 57, which stated that prejudices leading to racial discrimination were rare. Were there no acts or practices of racial discrimination, or was it that prejudices existed which, though rare, nevertheless led to racial discrimination? Had the State party taken the measures described in article 2, paragraph 1, of the Convention? The claim that because the State party engaged in no act or practice of racial discrimination it had not had to implement article 2, paragraphs 1 (d) and 2 was unsatisfactory; it was not thereby absolved from its obligations under article 2.

14. He commended the State party for providing that all treaties duly ratified acquired mandatory force of law within the country simply by virtue of the exchange or deposit of instruments of ratification or accession, and the statement that provisions calling for legislative or regulatory measures must be introduced by the State. That was precisely what the Convention required in article 2, paragraph 1 (c).

15. Had Lebanon undertaken to adopt "immediate and positive measures" to implement article 4? The obligations of States parties with respect to the mandatory nature of that article should not be confined to the narrow concept of "theories". In the light of that comment, the information on article 4 in paragraphs 33, 34 and 35 was inadequate. He asked why Lebanon had not quoted article 316 of its Criminal Code, as it had done in its fifth periodic report (CERD/C/65/Add.4), which was more relevant to article 4 than article 318.

16. Lebanon had provided satisfactory information on implementation of article 5 of the Convention. He asked for clarification of the statement in paragraph 27 that "All Lebanese are equal before the law". It was not clear which law was being referred to, since some important issues came under the laws drawn up by the various communities. For example, family-related problems were settled by religious courts.

17. The constitutional provision according to which the affirmation of equality of rights and obligations applied to citizens and not men and women in general was in conformity with article 1, paragraph 2 of the Convention.

18. He asked why, in paragraph 39 of the report, there was mention of only "the individual use of national languages". Could national languages be used by individuals in community with other individuals who spoke the same language? Further information was needed on the rights of foreign workers to be members of political parties, to choose and change jobs, to form trade unions, and to education, health care and social services. Clarification was also needed on their equality before the law, which was different from "their

access to the courts" which was mentioned in paragraph 39. In its report (A/52/40), the Human Rights Committee had expressed concern that Lebanon did not, in many instances, provide citizens with effective remedies and appeal procedures for their grievances. He asked how that affected foreign workers and refugees.

19. The report of the United States Department of State on Human Rights Country Situations, 1997, had alleged that in practice, very few Palestinians received work permits, that Palestinians continued to face job discrimination and that most of them were funnelled into unskilled occupations. The law which permitted aliens to own land of a limited size, subject to approval, was reportedly applied in a manner disadvantageous to Palestinians and, to a lesser extent, Kurds.

20. The fact that the Lebanese Criminal Code did not "permit" racial discrimination was not the same as the requirement in article 5 of the Convention whereby States parties "undertake to prohibit and to eliminate" racial discrimination. In connection with article 5 (b), the Human Rights Committee (A/52/40) had expressed concern about the broad scope of the jurisdiction of military courts in Lebanon, especially its extension beyond disciplinary matters and its application to civilians.

21. He welcomed the content of paragraph 45 and the quotation from the Lebanese Constitution of 1990. The Committee supported the territorial integrity and inviolability of States parties and was against unilateral secession and territorial disruption. Lebanon was prevented from implementing the Convention on the whole of its territory and under its jurisdiction, part of its territory being under illegal foreign occupation.

22. The admission in paragraph 47 of the report that some Lebanese nationals who employed foreigners confiscated their passports was a matter of concern. The State party deplored that practice, but did not consider that it was racially motivated. The Human Rights Committee had also expressed concern over the handling of that issue.

23. It was stated in paragraph 48 that the right to Lebanese nationality derived from jus sanguinis (any individual born of a Lebanese father was Lebanese), and jus solis. That called for clarification. If the father was not Lebanese, but the mother was, did that mean that the children were denied the right to Lebanese nationality? What did the term "Lebanese father" mean? Did it mean that the father not only had to be of Lebanese origin or extraction, born in Lebanon, but must also be a Lebanese national? When considering Lebanon's initial report on the Convention on the Rights of the Child in 1996 (CRC/C/8/Add.23), the Committee on the Rights of the Child had expressed its concern at the apparent discrimination in the granting of nationality to a child of parents of mixed nationality (CRC/C/54).

24. Could the fact that there were few mixed marriages be attributed to any restrictions on freedom of marriage, not simply tradition? It was disconcerting to learn from paragraph 51 that a proposal by the President of the Republic to draft a civil law to govern personal status, marriage and family law to supplement existing religious laws had not been favourably received in Lebanese society. That would suggest that "confessionalism as to

personal status" could not be easily abolished and that more education, in the general sense of the word, would be needed to convince society to accept more freedoms related to marriage.

25. He took the point that the inadequate protection of domestic workers, of whom the majority were foreigners, in terms of working hours was not a case of racial discrimination but a practical difficulty, but added that the State party could not leave that issue unresolved.

26. Details of specific Lebanese laws which implemented article 6 would have been welcome. Paragraph 54 merely gave assurances that rights and freedoms were established in Lebanese law and that any individual or group could have recourse to the courts in order to secure observance of their rights and to obtain compensation. Clarification was needed of the reference in paragraph 56 to "no noteworthy cases of violation" of the principles of the Convention. Did that mean that there had been less "noteworthy" cases where those principles had been violated and had litigants gone before Lebanese courts claiming such violation?

27. A full description of measures taken to implement article 7 would be expected in the next periodic report of Lebanon. Article 7 referred to much more than information. Quoting the article, he drew the delegation's attention to the Committee's General Recommendations V, XIII, XXII and XXIII.

28. Mr. VALENCIA RODRIGUEZ asked to what extent the Government was successful in maintaining balanced representation of the different groups of the population in the country's public life and in helping minority groups to develop.

29. The main disadvantage of the community system was that it did not provide for persons who did not wish to disclose their descent, ethnic origin or religious faith in order to participate in public life. What could be done to overcome that problem? The document of national understanding (the Taif Agreement) had called for the step-by-step elimination of political confessionalism. However, he noted that there was still resistance to its abolition as it was seen in some quarters as a means of ensuring civil peace among the people of Lebanon.

30. He wondered what was meant by the reference in paragraph 26 of the report to immediate implementation of "sufficiently specific and concrete" provisions of treaties that had been ratified or acceded to by Lebanon. Who decided which provisions fell into that category? Did that approach not undermine the unity of purpose of international instruments? He asked whether the fact that the Convention, as a whole, could be directly invoked before the courts meant that Lebanon viewed all its provisions as sufficiently specific and concrete.

31. Details of case law resulting from application of articles 317 and 318 of the Criminal Code of Lebanon would be welcome.

32. Had the Government of Lebanon considered a programme to disseminate the Convention and promote tolerance among the different groups of the population?

33. Mr. de GOUTTES, welcoming the resumption of Lebanon's dialogue with the Committee, said that Lebanon's confessional system was most original but was not without problems in terms of implementation of the Convention. For example, the fact that people could not participate in public life if they chose not to reveal their descent, ethnic origin or religious faith forced people to identify themselves with a particular community.

34. With reference to paragraph 19 of the report as to whether religious communities in Lebanon were ethnic groups and if the Lebanese were classified according to their origins, the report stated that the communities should be classified as groups of families with their own religious and cultural particularities. However, the distinction made between religious communities and "minorities" was not clear and should be explained further. Was the community system an example of distinction based on descent or national or ethnic origin? If so, it would contravene article 1, paragraph 1 of the Convention.

35. According to the report, the State party justified its contention that no special measures needed to be taken to secure adequate advancement of certain racial or ethnic groups on the grounds of article 1, paragraph 4 of the Convention. However, as could be seen from paragraph 23, Lebanon had an unusual interpretation of that article which should be clarified for the Committee.

36. How far had Lebanon moved towards the gradual elimination of the confessional system?

37. Articles 317 and 318 of the Criminal Code provided for penalties in accordance with article 4 of the Convention. Did the Code also cover other forms of racial discrimination such as economic discrimination or denial of access to public services on the basis of ethnic or national origin or religious faith?

38. The Committee could not accept Lebanon's claim to be free of racial discrimination - no country was in a position to claim that. The absence of complaints of racial discrimination was not necessarily a positive sign - it could mean that the population was not sufficiently informed of recourse available or lacked confidence in State authorities.

39. More information was needed on measures to protect the rights of both refugees, Palestinians in particular, said to be more than 400,000 in number, and foreign workers, especially Syrians, Egyptians, Sudanese and Ethiopians (paragraph 39 of the report). That applied also to the group of foreign domestic workers, who according to paragraph 53 were not adequately protected as to working hours, some even having had their passport "confiscated" by their employers (paragraph 47).

40. What was the position of the Government of Lebanon with regard to making the declaration under article 14 of the Convention?

41. Mr. SHERIFIS drew attention to the assertion in paragraph 57 that prejudices were rare. The objectives of the Convention were of perhaps even greater relevance in Lebanon than in other countries. The provisions of the

Convention should be made part and parcel of education at all levels of society, precisely because of the country's problems and the composition of its population. The Committee had never accepted the assertion by any State that racial discrimination was not a problem; there was room for improvement in every country.

42. He welcomed the provisions of the new paragraph (i) in the Preamble to the Lebanese Constitution (paragraph 45). How successful was the programme, referred to in paragraph 46, to allow the return of displaced persons to the original places of residence from which they had been driven by the armed conflicts?

43. Referring to the Committee's General Recommendation XXII, he asked whether refugees and displaced persons, after their return to their homes of origin, had the right to have restored to them property of which they had been deprived in the course of the conflict and to be compensated appropriately for any such property that could not be restored to them.

44. Ms. McDOUGALL asked whether there was a government policy to naturalize Palestinians, both refugees and others, who had been living in Lebanon for a long period. How many such persons had been naturalized over the previous five or six years?

45. The Middle East Report of July-September 1996 spoke of the marginalization experienced by Palestinians in Lebanon which took a number of forms often linked to exclusion and violence. The report said that there was a dimension marked by negativism and fear and a generalized feeling among Palestinians that they as individuals and as a community were an object of scorn and hostility. They were cast as troublemakers and the cause of Lebanon's post-war woes. Was that a fair description of the current sentiment in the population, and if so, how did the Government of Lebanon intend to deal with it in the future?

46. The delegation of Lebanon withdrew.

Review of the implementation of the Convention in States parties whose reports are excessively overdue

Saint Lucia

47. Mr. RECHETOV (Country Rapporteur) said that Saint Lucia, having acceded to the Convention in 1990, should have submitted its initial report in March 1991. Its fourth periodic report had been due in March 1997. To date, no report had been submitted.

48. Saint Lucia was a small Caribbean State. Long coveted by two colonial Powers, the United Kingdom and France, it had become a British colony in 1814; it had been granted independence in 1979. Since then, the country had been a multi-party parliamentary democracy and had been part of the British Commonwealth. The Government consisted of a cabinet headed by a prime minister, and the legislative branch was a bicameral parliament. A governor, appointed by the British Crown, was the formal head of State. The forces of order were composed basically of the police and a coastguard. The police was

run along democratic lines. There had been accusations that the police and prison authorities were violating the rights of persons in their custody, although such assertions did not have any clearly expressed national or racial character. The economy of the country was based on tourism and the export of bananas.

49. As at July 1996, the population of Saint Lucia had stood at 157,862. Persons of African origin made up 90.3 per cent of the population, those of mixed origin 5.5 per cent, those of East Indian origin 3.2 per cent and Whites 0.8 per cent.

50. On several occasions in the past, the Committee had looked into the reasons why a given State had not submitted its reports. Saint Lucia was clearly handicapped by a shortage of qualified staff to prepare the reports. Also, as Saint Lucia had never drawn attention as the scene of any ethnic conflicts, its Government had no doubt assumed that the submission of a report was unlikely to be a matter of priority. There were probably many States which, like Saint Lucia, did not submit reports for purely technical reasons. The question arose what the Committee should do in such cases. Even in the absence of serious allegations of violations of the rights covered by the Convention, the systematic failure to submit reports meant that such States were not fulfilling their obligations under the Convention. Since merely sending them new reminders served no purpose, it might be useful to ask the Secretariat to appoint someone to deal with all States which for technical reasons had failed to submit reports. The Committee could compile a list of such countries, and the Secretariat could try to take action, perhaps within the framework of advisory services, to ensure that some progress was made. The fact that dozens of States did not submit reports created a legal vacuum: the Committee had no idea what was happening in those States and no influence on the course of events there.

51. The CHAIRMAN asked Mr. Rechetov to draft a proposal for inclusion in the Committee's report to the General Assembly.

52. Mr. YUTZIS endorsed Mr. Rechetov's suggestion and agreed with the Chairman that it would be useful to have a written proposal for consideration.

ACTION BY THE GENERAL ASSEMBLY AT ITS FIFTY-SECOND SESSION

- (b) EFFECTIVE IMPLEMENTATION OF INTERNATIONAL INSTRUMENTS ON HUMAN RIGHTS (agenda item 11) (A/52/507)

53. Mr. BANTON said that he would be reporting on two meetings of persons chairing the human rights treaty bodies, the eighth (A/52/507) and the ninth (draft document distributed at the meeting, with no symbol). The ninth meeting had differed from the two previous ones he had attended in that only then had there been adequate recognition of the differences between the six treaty bodies, the Committee against Torture and the Committee on the Elimination of Racial Discrimination having narrower and more specific mandates than the others. At the seventh and eighth meetings, much time had been spent considering relations with United Nations agencies and listening to representations from pressure groups. At the ninth meeting, the focus had been more on discussions among the chairpersons of their shared problems. He

drew attention, however, to the following weakness: with the Committee's system of a rotating chairmanship, there was a lack of continuity, because its chairman attended only two meetings of chairpersons. He had been a newcomer at his first meeting and had therefore participated more effectively at his second meeting, but subsequently, under the Committee's system, he had had to pass the task on to someone else.

54. Commenting first on the eighth meeting, he drew attention to paragraph 34 of the report to the effect that no consensus had been reached with regard to the proposal to consolidate reports by States into a single global report to cover all six human rights treaties. However, there was recognition in paragraph 35 that there might be significant advantages if each State party was to focus its report on a limited range of issues. Paragraph 36 made it clear that the treaty bodies could assist that approach by strengthening their own concluding observations and making them more specific. Paragraph 38 stated that the general view of the chairpersons had been that it was neither practicable nor desirable to envisage joining the six treaty bodies into a single committee. Paragraph 49 reflected the belief of those present that occasional sessions in New York would enable the four committees concerned to establish better contact with States which did not have permanent missions at Geneva. Paragraph 51 made the point that there would be advantages in having occasional treaty body meetings at the various United Nations regional offices.

55. With reference to paragraph 56, he noted that, notwithstanding the Committee's agreement in September 1997 to request that documents required for meetings should be translated initially into certain languages to speed up distribution, the report of the Netherlands had not been released in time by the Conference Services Division.

56. In connection with paragraph 57 concerning the late calling to order of meetings, the Committee had wasted some three hours of conference service time since the beginning of the session, even if the opening meeting was discounted as a special case. Paragraph 58 suggested that treaty body members should leave the task of addressing courtesies to State party delegations to the chairperson and should also refrain from assessing the quality of State reports in their comments.

57. The question of briefings for delegations was raised in paragraph 59. He hoped that a draft document which he had prepared for the guidance of members and delegations (CERD/C/52/Misc.23) with a view to conducting the Committee's business more expeditiously could be discussed later in the session.

58. The Committee was one of the treaty bodies mentioned in paragraph 60 whose members did not receive honoraria.

59. He had conveyed the Committee's view to the chairpersons that its reporting guidelines did not require amendment to incorporate gender perspectives. He had objected to the statement in paragraph 64 that the United Nations Population Fund (UNFPA) round table held in December 1996 was of relevance to all treaty bodies but his proposed amendment, based on the wording agreed at the conclusion of the round table, had not been accepted.

60. With regard to impartiality, he had reported on the Committee's discussion when one of its members had been appointed Minister for Foreign Affairs.

61. Paragraph 73 had been included in response to the circulation among the chairpersons of an earlier version of CERD/C/52/Misc.9 containing a table of comparative statistics for the treaty bodies. Although the Chairperson of the Committee on Economic, Social and Cultural Rights had been unhappy with the table because it seemed to reflect adversely on his Committee and failed to take into account diverse aspects of the work of the different treaty bodies, he felt it should be possible to develop a useful activities profile containing quantitative data if appropriate explanations were offered for differences due, for example, to different reporting cycles. The next ordinary meeting of chairpersons would consider the possibility of issuing an annual report covering the work of all six treaty bodies.

62. The report of the ninth meeting of persons chairing the human rights treaty bodies was as yet available only in draft form. Paragraph 11 noted that the meeting had been especially constructive from the point of view of improved coordination and reform of the reporting system.

63. At the end of the meeting, the chairpersons had reported on their main conclusions to a public meeting attended by representatives of some 70 delegations of States parties, many of whom had made statements which reflected their keen interest in the problems of the treaty bodies. His own conclusion was that, while changes in the working methods of treaty bodies were necessary, it would be unduly cumbersome to seek reform through amendments to the treaties and more appropriate to do so through the meetings of chairpersons. He had also noted with interest that individual delegations often took the lead in drafting resolutions for adoption by the General Assembly, which provided useful insights into the views of other delegations on the issue in question. The delegation of Canada, for instance, had spearheaded General Assembly resolution 52/118 concerning the effective implementation of human rights instruments. It might be possible for such delegations to communicate informally with the incumbent Chairperson of the meeting of chairpersons on matters of interest to individual treaty bodies.

64. The issue of reservations to treaties was a highly contentious one. In particular, there was disagreement over whether reservations to human rights treaties were different in character from reservations to other categories of treaty. He trusted that the Committee would support the Chairperson of the ninth meeting of chairpersons, who was writing to the International Law Commission on the matter. It could be submitted that article 20, paragraph 2, of the Convention unequivocally assigned responsibility for deciding whether a reservation was incompatible or inhibitive to the States parties, but it could equally be argued that circumstances had changed since the Convention had been drafted in 1965, as reflected in General Comment No. 24 of the Human Rights Committee (HRI/GEN/1/Rev.3). He suggested that the Committee should discuss the issue during the current session with a view to determining an agreed position.

65. With regard to servicing, it was the unanimous opinion of the treaty bodies that, for reasons of continuity, efficiency and expertise, each Committee should have a designated secretary.

66. The idea of a global plan of action to enhance the resources available to the treaty bodies was discussed in paragraph 24. Proposals for voluntary funding by sources other than the United Nations regular budget had raised objections on three grounds: private funding for core activities was undesirable; existing arrangements favoured individual bodies such as the Committee on the Rights of the Child or the Committee on Economic, Social and Cultural Rights; funding tended to be unreliable in the long term. It was generally agreed, however, that plans of action, however unsatisfactory, were the only feasible option for the time being, and three State party delegations at the public meeting had expressed support for an overall plan of action on behalf of all six treaty bodies.

67. The chairpersons had taken note of the Committee's practice of examining the human rights situation in States parties whose reports were overdue. While some treaty bodies felt restricted in that regard by the provisions of their respective treaties, the meeting nonetheless agreed that there was a strong legal basis for supporting the Committee's approach.

68. Paragraphs 30 and 31 referred to the need for more focused reporting by States parties based on more specific concluding observations by treaty bodies. Chairpersons had been asked to report back on any measures taken in that regard.

69. With reference to paragraph 40 on the independence of experts, he drew attention to the guiding principles adopted by the Human Rights Committee (CCPR/C/61/GUI), which the Committee might wish to discuss at its next session.

70. The CHAIRMAN regretted that he had not received the reports reviewed by Mr. Banton in time to study them in depth, particularly since he would be responsible for follow-up on the matters discussed. He invited comments and suggestions from members of the Committee.

71. Mr. GARVALOV said that the two reports reviewed by Mr. Banton raised very serious issues which should be discussed by the Committee as a whole before the end of the session. He was deeply concerned that the process of reform of the treaty bodies was being conducted by an independent expert and that the bodies themselves had not been involved or consulted. Drawing attention to paragraph 3 of General Assembly resolution 52/118 which welcomed the submission of the independent expert's final report to the Commission on Human Rights, he suggested that a meeting or seminar should be convened at which the treaty bodies would have the opportunity to express their views.

72. The CHAIRMAN shared Mr. Garvalov's concern at what he could only describe as attempts to impose a "new international order" on treaty bodies without consulting their members. The implications of the issues raised were so far-reaching that it would be impossible to do them justice in the scant time available during the current session.

73. Mr. RECHETOV associated himself with the views expressed by Mr. Garvalov and the Chairman. The issues raised by the meetings of chairpersons called for careful consideration in the light of legal principles and the Committee's practical experience. He proposed that the Committee should prepare a plan for the development of general recommendations during the next few sessions on such important issues as State party reservations to the Convention and Mrs. Sadiq Ali's proposal regarding the right to information. He cautioned against taking any hasty decisions at the current session.

74. Mr. de GOUTTES expressed support for Mr. Rechetov's proposal regarding reservations and the right to information.

75. The issues raised at the meetings of chairpersons were of crucial importance for the Committee's working methods and indeed its very existence. In particular, it was important to discuss the proposed reform of the reporting system, the possible merger of treaty bodies and the independence of experts, with special reference to the guiding principles adopted by the Human Rights Committee¹³ March 1998. With regard to reporting procedures, he drew attention to a document circulated by the non-governmental organization Anti-Racism Information Service (ARIS), which contained a useful table concerning the effectiveness of the Committee's decisions during the period 1991-1996 on consideration of the human rights situations in States parties in the absence of a report.

The meeting rose at 6 p.m.